

M/003/01

cc: Daron
Mary Ann
Lynn
Vickie S.**KIEWIT PACIFIC CO.****Swift Powerhouse Canal Project 36-5867**

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To: Daron Haddock From: Mike Penello
Fax: 801-359-3940 Pages: 2 including cover
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Re: _____ CC: _____
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SEP 26 2005

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FROM : Park Valley Stone

FAX NO. : 801 732-1771

Sep. 26 2005 02:44PM P1

I & P Investments
10517 NE 50th Avenue
Vancouver, Washington 98686

September 26, 2005

Via fax

Mr. Darron Haddock
State of Utah
Division of Oil, Gas and Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801

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SEP 26 2005

DIV OF OIL GAS & MINING

Re: M/003/060

I am in receipt of your proposed assessment for State Notices of Violation MN-05-01-12(2) concerning our Green Peak operation. We protest the citation and the proposed penalty and request an informal conference concerning them. There has been no violation, and our operation is consistent with the approved plan of operation. Our reasoning is set forth below.

The approved plan of operation specifies stockpiling of growth medium in a stockpile. The stockpiled material is to be removed from the site of the waste rock pile and the quarry site. Screened fines may also be added. An estimated 2600 to 4685 cy is available. The approved plan specified that soil will be removed from the site of the waste pile *prior to waste disposal*. This condition has been met by the present operation. An estimated 400 yards of growth medium was stripped from the waste disposal site prior to placement of waste material. No waste has been placed on in situ growth medium.

Because of a late startup, only the area immediately needed was stripped. There has been no stripping at the quarry to date, and only a small area of the waste rock pile has been stripped to accommodate present operation. Ultimately, a 1.7 acre area will be stripped of growth medium to accommodate the waste rock pile. Only after the stripping of the waste rock pile and Phase II quarry area will the growth medium stockpile reach its final volume. There is no requirement in the approved plan of operation for stripping the entire disturbance prior to start up of the operation. Indeed, the operation would be less environmentally stable if all of the stripping were done up to several years in advance.

The notice of violation dated cited failure to salvage 4685 cy of growth medium within the topsoil storage area. I & P Investments recognizes the importance of salvaging of growth medium. We also recognize that 4685 cy is an optimistic estimate of the amount of material available. A modified notice of violation dated August 30, 2005 required abatement by October 30, 2005. This is inconsistent with the approved plan of operation.

We herein appeal this notice of violation and proposed assessment and request a meeting with you concerning this matter. We look forward to speaking with you soon.

Sincerely,

Mike J. Pauletto

cc: Mike Nelson, Bureau of Land Management
Mary Ann Wright, Division of Oil, Gas and Mining